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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,026	02/14/2002	Ronald D. Blum	051681/316203	5663
826 7590 01/22/2007 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER DINH, DUC Q	
			ART UNIT	PAPER NUMBER
			2629	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/22/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/074,026

Applicant(s)

BLUM ET AL.

Examiner

DUC Q. DINH

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07/February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-47, 49-58, 62-70 and 72-74 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36-47, 49-58, 62-70 and 72-74 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 6, 2006 has been entered. Claims 36-47, 49-58, 62-70 and 72-74 are pending in the Application and being examines.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 36-47, 49-58, 62-70 and 72-74 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The amended of claims 36, 42, 52, 62 and 65 recite the limitation a new "modifiable electronic display...", there is no support for the recited limitation in the original disclosure. The specification, specifically, as directed by applicant "page 50, paragraph 0025 and page 51 paragraph 0026" only discloses the content of the display, i.e. pasta, dog food, potato chips is changed"; however, there is no support for the newly added limitation "modifiable electronic display".

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The examiner examines the application based on best understood of the claimed languages.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 36-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over (U. S. Giraud (U.S Patent No. 5,966,696) in view of Castle (U.S Patent No. 5,848,830).

In reference to claim 36, Giraud discloses an advertising system in Fig. 1, comprising: a modifiable display (12, display 12 can display multiple different advertisement); at least one motion sensor (30); a controller (28) coupled to the at least one motion sensor (30) and display (12); a memory (36) instructions for illuminate the display (col. 2, lines 343-40) coupled to the controller (28); the controller electrically connected the display, the sensor and the memory and read the memory and activates the display in response to a signal from the sensor (col. 5, lines 5-20).

Accordingly, Giraud discloses all the claimed limitations except the display is configured to occupy an area of a floor. Castle discloses a display configured to occupy an area of a floor for presenting advertising information to consumer (col. 1, lines 4-6).

It would have been obvious for one of ordinary skill in the art at the time of the invention to realize that the teaching of presenting advertisements to consumers as taught by Giraud would be presented on a strategic location, i.e. on the floor of the in front of a store, to maximize exposure of advertisement so that it is frequently observed by consumers as taught by Castle (col. 1, lines 55-56 of Castle) would the sales of specific products

In reference to claim 37, Giraud discloses the motion sensor 30 senses motion proximal to the electronic display (col. 5, lines 5-10).

In reference to claim 38, Giraud discloses the direct current power source that powers the controller (col. 4, lines 6-9).

In reference to claim 39, Giraud discloses the memory instructions further comprise instruction for instructing the controller to electronic display different programs according to idle mode or active mode (col. 4, lines 16-29).

In reference to claims 40-41, Giraud discloses a sound generating means 24 connected with the controller 28 (Fig. 1) for generating audio portion of the advertisements as they are shown on the display 12 which is response to the signal from the sensor. In addition, Castle discloses a speaker 65 for broadcasting sound as claimed (col. 4, lines 35-38 of Giraud. Fig. 6, of Castle)

In reference to claim 42, see the rejection as applied to claim 36; in addition, Giraud discloses a method of advertising, comprising: displaying according to a first pattern (displaying a first non-advertisement information in idle mode); sensing motion; and display first and second visual content on the electronic display according to the second pattern when motion is sensed (once the presence of at least one potential consumer within the proximal range is sensed, the

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activate mode of the system is invoke and the display 12 begins displaying an advertisement; col. 4, lines 49-50).

In reference to claim 43, Giraud discloses the motion sensor 30 sensing motion in an area proximal to the display (see claim 42).

In reference to claim 44, Giraud discloses sensing of the motion has stop (col.4, lines 31-32).

In reference to claims 45-46, Giraud discloses the interface switch and modem 40 for connecting the system with a host computer for receiving addition information and displaying the information on display device 12 in response from the signal from the interface as claimed.

In reference to claim 47, Castle discloses the speaker 62 for broadcasting a first sound.

In reference to claim 49, refer to the rejection as applied to claim 43.

In reference to claim 50, refer to the rejection as applied to claim 44.

In reference to claim 51, refer to the rejection as applied to claim 47.

In reference to claim 52, refer to the rejection as applied to claims 36 and 40-41.

In reference to claim 53, refer to the rejection as applied to claims 45-46.

In reference to claim 54, Giraud discloses a modifiable display system in Fig. 1. 6, comprising: a modifiable electronic display (12; display 12 can display different advertisements; see abstract); at least one motion sensor (30); a controller (28) coupled to the at least one motion sensor (30) and display (12); a memory (36) coupled to the controller (28); wherein the controller activates the display device in response to a state of contents of the memory (col. 2,

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lines 38-40) based on a signal from the at least one motion sensor and detected by the controller 28 (col. 5, lines 5-20).

Accordingly, Giraud discloses all the claimed limitations except the display is configured to occupy an area of a floor. Castle discloses an illuminated floor display using for presenting advertising information to consumer (col. 1, lines 4-6).

It would have been obvious for one of ordinary skill in the art at the time of the invention to realize that the teaching of presenting advertisements to consumers as taught by Giraud would be presented on a strategic location, i.e. on the floor of the in front of a store, to maximize exposure of advertisement so that it is frequently observed by consumers as taught by Castle (col. 1, lines 55-56 of Castle) would the sales of specific products

In reference to claim 55, Giraud discloses the at least one motion sensor senses motion proximal to the electronic display (col. 5, lines 5-7).

In reference to claim 56, Giraud discloses the display device in first and second visual contents based on a first state and a second state, respectively, of the contents of the memory (col. 4, lines 13-30).

a. In reference to claim 57, Giraud discloses the sensor system illuminates the display in a third pattern based on the third state of the memory (non-advertising information; col. 4, lines 31-34; col. 1, lines 56-62).

In reference to claim 58, Giraud discloses the system comprising a sound-generating device (24) coupled to the sensor system (see Fig. 1) to generate a sound base on a signal from the sensor system (col. 4, lines 35-39).

In reference to claim 62, refer to the rejection as applied to claim 52.

In reference to claim 63, refer to the Giraud discloses the system 10 displays different display programs for idle mode and active mode in response to the signal from the motion sensor 30 and detected by the controller 28 (col. 4, lines 16-29).

In reference to claim 64, Giraud discloses the controller causes the display to display to present different display program in response to signal from the sensor and detected by the controller (col. 4, lines 31-34).

In reference to claim 65 refer to the claim 36 for the display, sensor, memory and controller and claim 41 and 42 for the sound of the system.

In reference to claims 66-70 and 72-74 refer to the rejection as applied to claims 40-41 and 42-44.

Response to Arguments

6. Applicant's arguments filed November 6, 2006 have been fully considered but they are not persuasive. With respect to the Applicant's argument (pages 10 of the Remarks) Castle does not disclose a modifiable electronic display configured to occupy an area of a floor, Castle discloses the electronic display (col. 3, lines 60-67) can be modified to display one or more posters (col. 2, lines 60-65).

7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., Giraud does not disclose how to reposition or reconfigure... a way of protecting motion detectors and other similar part from impact forces..., the general wear and tear ...) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the

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specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26

USPQ2d 1057 (Fed. Cir. 1993). Furthermore,

8. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Giraud and Castle references related to advertisement systems, and therefore, It would have been obvious for one of ordinary skill in the art at the time of the invention to realize that the teaching of presenting advertisements to consumers as taught by Giraud would be presented on a strategic location, i.e. on the floor of the in front of a store, to maximize exposure of advertisement so that it is frequently observed by consumers as taught by Castle (col. 1, lines 55-56 of Castle) to increases the sales of specific products.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DUC Q. DINH whose telephone number is (571) 272-7686. The examiner can normally be reached on Mon-Fri from 8:00.AM-4:00.PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Hjerpe can be reached on (571) 272-7691. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DUC Q DINH
Examiner
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A handwritten signature in black ink, appearing to read 'Duc Q Dinh', written in a cursive style.

DQD
January 17, 2007